

Siskiyou Land Conservancy

September 11, 2012

Eric Huff, RPF, Regulations Coordinator
California Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA, 94244-2460

RE: Forest Practice Committee Meeting, Item 3
September 11, 2012
Issues Relating to TPZ Zoning of, and Conservation Easement Conveyance of
Development Rights for, Assessor Parcel Number 126-180-27, SE¼ Sec. 24, T15N,
R2E, HB&M, James Baskin and Julia Green, Owners-of Record, County of Del Norte

Dear Mr. Huff,

I am President and Executive Director of Siskiyou Land Conservancy, a non-profit, 501(c)3 organization located in Arcata, Humboldt County. Siskiyou Land Conservancy serves the five-county region of northwestern California (Humboldt, Del Norte, Mendocino, Trinity and Siskiyou). We currently own two private parcels, which we manage for rare and protected species, protection of habitat, and — on one parcel — public recreation, and we hold conservation easements on three other properties to protect their natural values and encourage sustainable resource use.

One of the easement properties is that cited above, owned by James Baskin and Julia Green alongside the South Fork Smith River, in Del Norte County. As you are aware, on November 30, 2011, the Del Norte County Assessor's office initiated a rezoning of the Baskin property that was designed to immediately roll the property out of TPZ and into the "Agriculture-Forestry" zoning. The county contended that the conservation easement "violated the Timberland Production Zoning (TPZ) by restricting the Harvesting and Growing of timber with a reasonable expectation of harvest for a long term stability of local resource-based economies."

This contention is mistaken at best, fallacious at worst. The easement as written in no way prevents the commercial harvest of timber. Rather, the easement states that such harvesting must be done in such a fashion as to augment the conservation purpose of the easement, and all proceeds from the harvest must be contributed to ongoing forest restoration efforts on the property. This is made very clear in the easement, which encourages a sustainable forestry model.

The easement states: “It is the purpose of this Easement to enable the Property to *remain in forestry*, agricultural, and very low density rural residential uses (as defined in Exhibit B, Section 2), by preserving and protecting in perpetuity its relevant natural resource values and character, uses and utilities, and *by preventing any use or condition of the Property that would significantly impair or interfere with its **timberland**, agricultural, and very low density rural residential values, character, uses or utilities.* To the extent that the preservation of the open space and scenic values of the Property is consistent with such use, it is within the purpose of this Easement to protect those values.”

The easement goes on to provide for owners’ rights to conduct commercial as well as non-commercial forestry: “Non-commercial Forestry. To engage in non-commercial forestry uses on the Property in accordance with sound, generally accepted silvicultural practices that do not threaten or degrade significant natural resources. For the purposes of this Easement ‘non-commercial forestry uses’ shall be defined as: the cutting or firewood or saw timber solely for use on the Property and for the enhancement of standing timber stocks, provided that the processing, storage, and use of any such forest products shall require the consent of Grantee; further provided, however, that such noncommercial forestry uses shall not result in significant soil degradation, significant pollution or degradation of any surface or subsurface waters, and that all uses and activities are consistent with applicable laws.”

The easement then specifically allows commercial forestry activities as well: Under “Prohibited Uses and Practices,” the easement states: “The establishment and conduct of commercial or industrial uses or the construction, placing, or erection of any signs or billboards; *provided, however, that neither **forestry**, ranching, agriculture, nor the production or processing of food and fiber products or other uses as contemplated by the provisions of Exhibit B, shall be considered prohibited commercial or industrial uses.*” [emphasis added]

The reason I use the word “fallacious” is not only due to the very clear intention of the easement, as originally written and cited above, to allow commercial timber harvesting, but also because the county employed dubious, if not illegal means of attempting to roll this property out of TPZ zoning. The action was initiated out of the office of the Del Norte County Assessor, in a letter signed by Assessor Louise Wilson. Yet it was not Wilson who initiated or even managed the action, but retired Assessor Gerald Cochran. The State Board of Forestry was never consulted in this process. During meetings to discuss the proposed zoning change, Wilson said virtually nothing, while Cochran, no longer a county employee, ran the meetings. At this time I was surprised to learn from the county’s planning staff that they had not been informed of the meetings or the proposed TPZ change.

Although the initial November 30 letter did not arrive in the Baskin-Green mailbox until December 5, 2011, Del Norte County nonetheless moved forward with the rezoning effort. On December 1, the clerk of the Del Norte County Board of Supervisors mailed Baskin-Green a letter and announcement stating that on December 13 the Board would consider the Assessor's office's request to rezone the property, thus bypassing the County Planning Division as well as the ability of parties to have adequate time to respond. Baskin-Green and their attorney were able to have this item struck from the agenda, and since then they and Siskiyou Land Conservancy have agreed to, and in fact have completed a revision of the Conservation Easement to strengthen what was already very clear language that allows commercial timber harvesting on the property — yet these actions and meetings and legal fees and personal distress need never have occurred at all, and appear to be in violation of state law.

It has come to our attention that the County of Del Norte is busy examining deeds and challenging the zoning of other TPZ properties that are encumbered by conservation easements. These actions would appear to violate the spirit and intent of the California Forest Practices Act and the California Environmental Quality Act. Siskiyou Land Conservancy and Baskin-Green have spent several thousand dollars in legal fees and staff time addressing what is at best a non-issue, at worst an unenlightened revenue enhancement scheme by a poor county that actually concocted an alleged "violation" of zoning laws in order to increase tax revenues.

Siskiyou Land Conservancy asks that the California Board of Forestry and Fire Protection deny any and all Del Norte County efforts to rezone TPZ properties, and investigate the dubious and possibly illegal nature of these efforts.

Sincerely,



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